

David Reed
Senior Executive, Access & Licensing



OFFICE OF RAIL AND ROAD

27 May 2020

Andy Cole
Manager, Regulation and
Customer Relationships
HS1 Limited
5th Floor
Kings Place
90 York Way
London
N1 9AG

Jason Lewis
Head of International Network
Strategy
Eurostar International Limited
Times House
Bravingtons Walk
Regent Quarter
London
N1 9AW

Dear Andy and Jason,

Approval of the side letter dated 26 May 2020 to the track access contract between HS1 Limited and Eurostar International Limited

1. The Office of Rail and Road (ORR) has today approved the side letter dated 26 May 2020 to the track access contract between HS1 Limited (HS1) and Eurostar International Limited (EIL) (jointly the parties), submitted to us formally on 27 May 2020 under the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (the 2016 Regulations). This follows an earlier informal submission of a draft side letter for our consideration. The purpose of our letter is to explain the reasons for our decision.

Purpose of the side letter

2. The measures that have been implemented to mitigate the effects of the Covid-19 pandemic have resulted in a very significant reduction in the revenue received by the train operators that use the HS1 network. HS1 Ltd has made an offer to all Train Operating Companies (TOCs) operating on its network, to defer the renewals and replacement element of the Operations, Maintenance and Renewals Charges (OMRC) payable by train operators, for a set period. These arrangements are intended to form a short-term, exceptional response, to assist TOCs in mitigating the impact of the pandemic on their immediate cash-flow.

3. The side letter defers the renewals and replacement element of OMRC in the period between 1 April 2020 and 26 June 2021, and recovers the deferred charges over the period 27 June 2021 to 31 March 2025.



INVESTOR IN PEOPLE

Consultation

4. No consultation on the arrangements contained in the side letter was required as the arrangements are of a financial nature only and will have no effect on any third parties (including the access rights of other train operators).

Our review

5. We have been in discussions with HS1, the Department for Transport, EIL and other users of the HS1 network about proportionate and effective responses to the financial consequences of Covid-19. HS1 and EIL proposed this payment holiday as a short-term measure that could mitigate the impact of the current pandemic on the immediate cash flow of train operators – while retaining the integrity of the existing regulatory framework.

6. We reviewed a draft version of the side letter and suggested some drafting changes. The parties reflected these suggestions in a revised version of the side letter which they submitted formally to us.

ORR's conclusions

7. Pursuant to Regulation 31(1) of the Regulations, in considering the application and in reaching our decision, we are required to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Railways Act 1993. Approval of this application is consistent with these duties; in particular our duties to:

- protect the interests of users of rail services;
- promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- contribute to the development of an integrated system of transport of passengers and goods; and
- enable persons providing railway service to plan the future of their businesses with a reasonable degree of assurance.

8. We will place a copy of the side letter on our website and public register.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Reed', is written over a light blue horizontal line.

David Reed